THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19274 of 2000

Dated:01.11.2006

Between
T.Sreehari Reddy

.....Petitioner

and

1. Andhra Pradesh Cooperative Tribunal,
Vijayawada, Krishna District,
Rep., by its Chairman
and others.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19274 of 2000

ORDER:

This writ petition is filed seeking a Mandamus to declare the proceedings of the 2nd respondent in RC No.2358/96-B, dated 24.6.1997 as confirmed by the Tribunal in O.A.No.122 of 1997 dated 26-11-1999, as arbitrary and illegal.

There is no necessity to go into all the details. It appears that as per the inspection report under Section 52 of the Andhra Pradesh Co-operative Societies Act (for short 'the Act'), surcharge proceedings were initiated against ex-secretary of the 3rd respondent society. While the matter stood thus, a notice under Section 60 (1) of the Act was issued to the petitioner, directing him to appear in the enquiry.

The whole case of the petitioner is that inspection under Section 52 of the Act and the recommendation as to initiation of surcharge proceedings are against the ex-secretary alone and

not against him. The petitioner was falsely implicated and surcharge authority has no such business to initiate surcharge proceedings without there being any recommendation for taking up surcharge proceedings against him. However, the surcharge authority proceeded against the petitioner and passed orders. Aggrieved by the same, petitioner filed OA No.122 of 1997 before the Andhra Pradesh Cooperative Tribunal Vijayawada. The same ground was raised by the petitioner before the appellate authority also. But the appellate authority, without considering the same, confirmed the orders passed by the surcharge authority.

On verification of the record, produced by the learned Government Pleader, it is revealed that inspection was conducted under Section 52 of the Act and the report speaks as to initiation of surcharge proceedings against the Ex-secretary alone and not against the petitioner.

In view of the above, the impugned order passed by the surcharge authority as confirmed by

the appellate authority does not stand scrutiny of law as no powers are vested with the surcharge authority. Therefore, the impugned order is liable to be set aside.

Accordingly, the writ petition is allowed and the impugned order passed by the surcharge authority as confirmed by the appellate authority is set aside. No costs.

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1-11-2006

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